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ATTORNEYS FOR PLAINTIFFS

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LAURA RESNANSKY and KRIS JACOB

Plaintiffs,

v.

THE UNITED STATES OF AMERICA,

Defendant.

Case No.

**COMPLAINT FOR DAMAGES
(Negligence – Motor Vehicle)
(Demand for Jury Trial)**

Plaintiffs complain of the defendant and allege as follows:

JURISDICTION

Subject matter jurisdiction against defendant United States of America exists pursuant to United States Constitution, Article III, Section 2, Subdivision 2, and Title 28 United States Code §1346(b) (Federal Tort Claims Act).

Pursuant to the provisions of the Federal Tort Claims Act, within two years of the accrual of the within cause of action and prior to the filing of this complaint, plaintiffs presented written claims on their respective behalves and lodged with the appropriate agency of defendant, specifically The Presidio Trust, setting forth the events and circumstances complained of herein. Both claims were presented on or about May 1, 2013. As of November 4, 2013 the government has taken no action on either of these claims and, therefore, they are deemed rejected by operation of law.

VENUE

This is the proper court for commencing this action because all relevant acts or omissions occurred within the Northern District of the State of California (28 U.S.C. §1402[b]).

PARTIES

Plaintiffs LAURA RESNANSKY and KRIS JACOB are, and at all relevant times were, natural persons who were and are married to each other and residing within the City and County of San Francisco, State of California.

The Presidio Trust is and at all relevant times was a federal executive agency or department as described in detail at Title 14 United States Code §1, *et seq.*

FACTUAL BACKGROUND

1. On or about February 12, 2013, plaintiff LAURA RESNANSKY was a pedestrian in a marked crosswalk at the intersection of Jackson Street and Presidio Avenue, San Francisco, California which is approximately one block south of the Presidio National Park. At this time and place Karl Twiford, an employee and agent of defendant The Presidio Trust, driving a 2010 Ford F250 vehicle, bearing U.S. license G430367M, owned by defendant The Presidio Trust, negligently and careless made a left turn into plaintiff LAURA RESNANSKY. At the time of this incident Mr. Twiford was acting within the course and scope of his employment/agency with defendant The Presidio Trust. The above-described collision legally and proximately caused a comminuted intra-articular of the distal radius as well as a minimally displaced ulnar styloid fracture in her left wrist, as well as a displaced fracture of the distal fibula below the tibial plafond in her right lower extremity. She also suffered other injuries to her body.

FIRST CLAIM FOR RELIEF
[Negligence]

For a first, separate and distinct claim for relief, plaintiffs LAURA RESNANSKY and KRIS JACOB complain of defendant and allege as follows:

2. Plaintiffs hereby refer to, re-allege, and incorporate by this reference as though set forth in full, each and every allegation contained in paragraph 1 of this Complaint, and makes them a part of this, the First Claim for Relief, as though set forth in full.

1 3. At all times herein mentioned, the driver of the vehicle that struck plaintiff LAURA
2 RESNANSKY was driving in the course and scope of his employment with a federal agency,
3 specifically The Presidio Trust. At the above-described time and place the driver of the
4 aforementioned vehicle negligently and carelessly struck plaintiff LAURA RESNANSKY, a
5 pedestrian, thereby legally and proximately causing the below-described damages.

6 4. As a proximate and legal result of the above-described negligence and carelessness
7 of defendant's agent/employee, plaintiff LAURA RESNANSKY sustained a comminuted intra-
8 articular of the distal radius as well as a minimally displaced ulnar styloid fracture in her left wrist,
9 as well as a displaced fracture of the distal fibula below the tibial plafond in her right lower
10 extremity. She also suffered other injuries to her body. These injuries required surgery and
11 resulted in a residual disability. Plaintiff LAURA RESNANSKY is informed and believes and
12 thereon alleges that some of said injuries are permanent, the precise nature and extent of such
13 injuries at this time being unknown to her.

14 5. By reason of the premises, it has become necessary for plaintiff LAURA
15 RESNANSKY to incur costs and expenses for medical care and treatment reasonably related to
16 and required in the care and treatment of his injuries. Medical billing is complicated and at times
17 opaque. Therefore, plaintiff LAURA RESNANSKY prays leave to amend and insert these
18 elements of her damage in this respect when the same are finally determined. Based on current
19 information plaintiff believes her past medical bills total approximately \$80,000, with
20 approximately \$60,000 paid. The cost of her future care is not yet determined as she continues to
21 heal and this will be the subject of expert testimony. Thus, the total of such expenses, past and
22 future, is presently unascertained as said services are still continuing. Plaintiff LAURA
23 RESNANSKY prays leave to amend and insert her elements of damage in this respect when the
24 same are finally determined.

25 6. By reason of the premises, plaintiff LAURA RESNANSKY has been unable at
26 times to follow her regular work/occupational duties in her job as well as domestic chores, all to
27 her special damage in an amount of approximately \$186,939.49. This is an estimate and the
28 presently unascertained sum is not yet finally determined. Plaintiff LAURA RESNANSKY prays

1 leave to amend and insert her elements of damage in this respect when the same are finally
2 determined.

3 7. By reason of the premises, plaintiff LAURA RESNANSKY sustained general
4 damages for pain, suffering, disability, inconvenience, embarrassment, and all other compensable
5 elements of non-economic harm in the amount of \$633,060.51.

6 **SECOND CLAIM FOR RELIEF**
7 **[Loss of Consortium]**

8 For a first, separate and distinct claim for relief, plaintiffs LAURA RESNANSKY and
9 KRIS JACOB complain of defendant and allege as follows:

10 8. Plaintiffs hereby refer to, re-allege, and incorporate by this reference as though set
11 forth in full, each and every allegation contained in paragraph 1 through 7 of this Complaint, and
12 makes them a part of this, the Second Claim for Relief, as though set forth in full.

13 9. Plaintiff KRIS JACOB is, and at all times herein mentioned was, the lawful
14 husband of plaintiff LAURA RESNANSKY.

15 10. By reason of the premises, plaintiff KRIS JACOB suffered the loss of support,
16 services, love, companionship, affection, society, and other elements of consortium, all to his
17 general damage in an amount of \$100,000.

18 WHEREFORE, plaintiffs LAURA RESNANSKY and KRIS JACOB pray judgment
19 against the defendant as follows:

20 a. For economic (special) damages according to proof in the approximate
21 amount of \$266,939.49;

22 b. For non-economic (general) damages of \$733,060.51;

23 c. For costs of suit incurred herein; and

24 d. For such other and further relief as the Court may deem proper.

25 **DEMAND FOR JURY TRIAL**

26 Plaintiffs herein demand trial by jury.
27
28

1 Dated: November 4, 2013

WALKUP, MELODIA, KELLY
& SCHOENBERGER

3 /s/ Douglas S. Saeltzer

4 DOUGLAS S. SAELTZER
5 Attorney for Plaintiffs